

### Remarks/Arguments

Claims 1-10 are pending. Claims 1-10 have been finally rejected. No claims have been merely objected to and no claims have been allowed. By entry of this amendment, claims 2, 3 and 5 are canceled without prejudice, claims 1, 4, 6, 7, 8, 9 and 10 have been amended, and no new claims have been added. Claim 1 has been amended to incorporate dependent claims 2, 3 and 5. Support for the amendments to the claims may at least be found in the specification, claims and drawings as originally filed. No new matter is presented.

### Rejections under 35 U.S.C. §§102(b)/103(a)

The examiner asserts claims 1-10 are rejected under 35 U.S.C. §102(b) as anticipated by, or in the alternative, under 35 U.S.C. §103(a) as obvious over U.S.P.N. 6,365,768 to Palladino et al. ("Palladino"). Applicants respectfully traverse the rejection.

Applicants' amended claims 4 and 6-10 are all ultimately dependent upon amended independent claim 1.

Applicants' amended claim 1 defines fully the extract procedure as directed to an ethanol insoluble part derived from a water extract of the root or stem of *Acanthopanax koreanum* thereby distinguishing the Applicants' claimed invention from the teachings of Palladino. According to the extract procedure recited in amended claim 1, the ethanol insoluble part is derived from a water extract of *Acanthopanax koreanum*.

The ethanol insoluble part of amended claim 1 is prepared by extracting *Acanthopanax koreanum* with water, then treating the water extract with ethanol, and then filtering the precipitated part in aqueous ethanol solution. Palladino teaches discarding the water fraction of methanol extract and does not teach the water fraction of methanol extract of *Acanthopanax koreanum* has the activity of inhibiting the production of TNF- $\alpha$  (i.e. Tumor Necrosis Factor- $\alpha$ ). In contrast, Applicants' claimed ethanol insoluble part is derived from the water extract. Palladino

teaches the presence of acanthanoic acid is responsible for the activity inhibiting the production of TNF- $\alpha$ . In contrast, Applicants' claimed ethanol insoluble part exhibits the activity that inhibits TNF- $\alpha$  production. The claimed ethanol insoluble part contains polysaccharides having a molecular weight larger than the range of 12,000~14,000. Therefore, Palladino fails to teach an ethanol insoluble part inhibits the production of TNF- $\alpha$ .

Furthermore, Palladino fails to suggest or provide the requisite motivation to alter its teachings and suggest discarding the water fraction of methanol extract or suggest the water fraction of methanol extract of *Acanthopanax koreanum* has the activity of inhibiting the production of TNF- $\alpha$ . Unlike Applicants' amended claim 1, Palladino fails to suggest, for instance, a methanol insoluble part is responsible for the activity inhibiting TNF- $\alpha$  production, rather than acanthanoic acid as taught therein. This observation is further evidenced by the fact that Palladino does not suggest that either the extract or a hypothetically, suggested methanol extract would contain polysaccharides having a molecular weight larger than the ranges of 12,000~14,000. Thus, the activity of inhibiting the production of TNF- $\alpha$  is not obviously expected from the teachings of Palladino as Palladino can neither suggest nor provide the requisite motivation to alter its teachings and suggest utilizing a methanol extract let alone Applicants' claimed ethanol insoluble part.

In light of the foregoing, Applicants respectfully request the Examiner withdraw the rejections under 35 U.S.C. §§102(b)/103(a) and find that claims 1-10 are allowable.

The examiner asserts claims 1-10 are rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as obvious over U.S.P.N. 5,900,434 to Pyun et al. ("Pyun"). Applicants respectfully traverse the rejection.

Applicants' amended claims 4 and 6-10 are all ultimately dependent upon amended independent claim 1.

Applicants' amended claim 1 defines fully the extract procedure as directed to an ethanol insoluble part derived from a water extract of the root or stem of *Acanthopanax koreanum* thereby distinguishing the Applicants' claimed invention from the teachings of Pyun. According to the extract procedure recited in amended claim 1, the ethanol insoluble part is derived from a water extract of *Acanthopanax koreanum*.

Applicants' amended claim 1 defines fully the extract procedure as directed to an ethanol insoluble part derived from a water extract of the root or stem of *Acanthopanax koreanum* thereby distinguishing the Applicants' claimed invention from the teachings of Pyun. According to the extract procedure recited in amended claim 1, the ethanol insoluble part is derived from a water extract of *Acanthopanax koreanum*. Pyun does not teach generating an ethanol insoluble part, that is, a precipitate, during its extraction process due to the fact that Pyun does not utilize ethanol.

The ethanol insoluble part of amended claim 1 is prepared by extracting *Acanthopanax koreanum* with water, then treating the water extract with ethanol, and then filtering the precipitated part in aqueous ethanol solution. Pyun teaches discarding the water fraction of methanol extract and does not teach the water fraction of methanol extract of *Acanthopanax koreanum* has the activity of inhibiting the production of TNF- $\alpha$  (i.e. Tumor Necrosis Factor- $\alpha$ ). In contrast, Applicants' claimed ethanol insoluble part is derived from the water extract. Pyun teaches the presence of acanthanoic acid is responsible for the activity inhibiting the production of TNF- $\alpha$ . In contrast, Applicants'

claimed ethanol insoluble part exhibits the activity that inhibits TNF- $\alpha$  production. The claimed ethanol insoluble part contains polysaccharides having a molecular weight larger than the range of 12,000~14,000. Therefore, Pyun fails to teach an ethanol insoluble part inhibits the production of TNF- $\alpha$ .

Furthermore, Pyun fails to suggest or provide the requisite motivation to alter its teachings and suggest discarding the water fraction of methanol extract or suggest the water fraction of methanol extract of *Acanthopanax koreanum* has the activity of inhibiting the production of TNF- $\alpha$ . Unlike Applicants' amended claim 1, Pyun fails to suggest, for instance, a methanol insoluble part is responsible for the activity inhibiting TNF- $\alpha$  production, rather than acanthanoic acid as taught therein. This observation is further evidenced by the fact that Pyun does not suggest that either the extract or a hypothetically, suggested methanol extract would contain polysaccharides having a molecular weight larger than the ranges of 12,000~14,000. Thus, the activity of inhibiting the production of TNF- $\alpha$  is not obviously expected from the teachings of Pyun as Pyun can neither suggest nor provide the requisite motivation to alter its teachings and suggest utilizing a methanol extract let alone Applicants' claimed ethanol insoluble part.

In light of the foregoing, Applicants respectfully request the Examiner withdraw the rejections under 35 U.S.C. §§102(b)/103(a) and find that claims 1-10 are allowable.

CONCLUSION

In light of the foregoing, it is submitted that all of the claims as pending patentably define over the art of record and an early indication of same is respectfully requested.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

It is submitted that the claims as amended herein patentably define over the art relied on by the Examiner and early allowance of same is courteously solicited.

If any fees are required in connection with this case, it is respectfully requested that they be charged to Deposit Account No. 02-0184.

Respectfully submitted,  
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